

Motion to Compel Arbitration, file this their Second Amended Original Third-Party Complaint and for cause of action would show this Court that Gra-Son Land, Inc. and Gee Consultants, Inc. (collectively referred to as "Third-Party Defendants") are liable to Defendants and/or Plaintiffs and Intervenors for all or part of the damages alleged by Plaintiffs and Intervenors.

A. Parties

1. Plaintiffs are individuals residing in Arlington, Tarrant County, Texas.
2. Defendant Kaufman & Broad Lone Star, L.P. a/k/a KB Home Lone Star L.P. is a Texas Limited Partnership.
3. Defendant Kaufman & Broad of Texas, Ltd. is a Texas Limited Partnership.
4. Defendant KB Home f/k/a Kaufman and Broad Home Corporation, is a Delaware corporation operating in Texas.
5. Defendant Tom Bannon is an individual who resides in Tarrant County, Texas.
6. Third-Party Defendant, Gra-Son Land, Inc., is Texas corporation and may be served by serving its Registered Agent, Harold D. Dixon at 3136 Routh St., Suite 203, Dallas, Texas 75201.
7. Third-Party Defendant, Gee Consultants, Inc., is Texas corporation and may be served by serving its Registered Agent, Richard W. Gee at 10046 Monroe Dr., Dallas, Texas 75229.

B. Facts Upon Which This Action is Based

8. By Original Petition that is incorporated herein for all purposes and was filed on November 8, 2001, Plaintiffs sued Defendants for allegedly failing to disclose that certain homes purchased by Plaintiffs were situated over a former World War II naval practice range, and, as a

result, are defective or dangerous. Additional Intervenor have subsequently filed Petitions in Intervention that are incorporated herein for all purposes.

9. Defendants assert that Third-Party Defendant, Gra-Son Land, Inc., developed and sold the properties at issue in this lawsuit and is or may be liable to Defendants or to Plaintiffs and Intervenor for all or a part of Plaintiffs and Intervenor's claims.

10. Defendants also assert that Third-Party Defendant Gee Consultants, Inc. performed engineering and environmental consulting services regarding the properties at issue in this lawsuit and is or may be liable to Defendants or to Plaintiffs and Intervenor for all or part of Plaintiffs and Intervenor's claims.

11. Although Plaintiffs and Intervenor have alleged claims against Defendants for failing to disclose that the subject property is situated over a former World War II naval practice range, and, as a result, is defective or dangerous, Plaintiffs and Intervenor have not yet named Third-Party Defendants as original defendants in their respective Pleadings.

C. Causes of Action

12. Defendants are entitled to join Third-Party Defendants as Responsible Third-Parties pursuant to Tex. Civ. Prac. & Rem. Code § 33.004. Plaintiffs' allege that Defendants are liable for their alleged damages as a result of common-law fraud, negligence, and gross negligence.

13. In the unlikely event that Plaintiffs and Intervenor sustain their burden of proof regarding such allegations, Defendants allege that Gra-Son Land, Inc. is liable for Plaintiffs and Intervenor's alleged damages as a result of its breach(es) of contract, failure to disclose material facts and negligent misrepresentations as to the sale of the subject property, negligence in the

development of the property, and breach(es) of the implied warranty of development in a good and workmanlike manner.

14. Also, should Plaintiffs and Intervenor sustain their burden of proof regarding their allegations, Defendants allege that Gee Consulting, Inc. is liable for Plaintiffs and Intervenor's alleged damages as a result of its breach(es) of contract and negligence in the performance of engineering and environmental assessments of the subject property.

15. Defendants further allege that Third-Party Defendants are liable to Defendants for contribution and/or indemnity pursuant to Texas Civil Practice and Remedies Code §33.001 – 33.017, Texas Deceptive Trade Practices Act §17.555, per contractual agreement and/or in equity. Defendants also allege their entitlement to recover their attorneys' fees and costs incurred to maintain this action for indemnity pursuant to Texas Deceptive Trade Practices Act §17.555 and a contractual agreement with Gra-Son Land, Inc. Defendants also allege their entitlement to equitable indemnity including its attorneys' fees and costs incurred to maintain this action for indemnity. *See* Baja Energy, Inc. v. Ball, 669 SW2d 836 (Tex.App-Eastland, 1984, no writ).


D. Prayer

16. WHEREFORE PREMISES CONSIDERED, Defendants pray that Third-Party Defendants be cited to appear and answer, and that on final trial, Defendants be awarded the following:

1. Judgment against Gra-Son Land, Inc. and Gee Consultants, Inc. for indemnity and/or contribution as provided by law;
2. Reasonable and necessary attorneys' fees as provided by law;
3. Pre-judgment and post-judgment interests as provided by law;
4. Costs of suit; and

5. Such legal and equitable relief to which Defendants may be justly entitled.

Respectfully submitted,
BUSH & MOTES, P.C.

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CERTIFICATE OF SERVICE

I hereby certify that I have served a true and correct copy of this document upon the following counsel of record, as required by law, on this the 22nd day of January, 2003:

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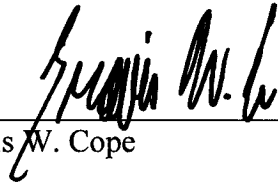
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